

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (CREDITING AND TREATMENT OF NATIONAL INSURANCE CONTRIBUTIONS, AND NATIONAL INSURANCE NUMBERS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2015

S.R. 2015 No. 404

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by sections 158C(1) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992. The Rule is subject to the negative resolution procedure before the Assembly.

2. Purpose

- 2.1 Regulation 2 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) (Amendment) Regulations (Northern Ireland) 2015 amends Regulation 9 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001 to provide that where an individual has applied for a Biometric Residence Permit (BRP) from the Home Office (HO) whilst outside of the UK and a BRP is to be issued, they do not have to make a separate application for a National Insurance Number (NINo) when they arrive in the United Kingdom (UK).

3. Background

- 3.1 The HO issues BRPs to Third Country Nationals from outside the European Economic Area who are granted leave to enter the UK for more than 6 months. The Department for Social Development allocates NINos to adults from abroad. Both processes check identity, immigration status and the right to work in the UK.
- 3.2 The Department for Work and Pensions (DWP) and HO have collaborated to align the processes to create a BRP that includes a NINo. This approach results in both a BRP and a NINo being allocated from one application.
- 3.3 On the 23rd February 2015, in line with changes introduced in Great Britain, an amendment to Regulation 9 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001 provided that where a person has applied for a BRP whilst in the UK and a BRP is to be issued, they do not have to make a separate application

for a NINo. This aligned the regulations with Regulation 13 of the Immigration (Biometric Registration) Regulations 2008.

- 3.4 With effect from 17th March 2015, the HO inserted Regulation 13A into the Immigration (Biometric Registration) Regulations 2008 to permit the issue of a BRP to persons who make an application from outside the UK. The BRP is collected via a secure process on arrival in the UK. As with the previous amendment to Regulation 9 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001, the present amendment provides that where a BRP is to be issued following an application from outside the UK, the person concerned does not have to apply for a NINo.
- 3.5 The aligned NINo/BRP process has significant benefits for individuals who, previously, could not make their NINo application until they arrived in the UK.

4. Consultation

- 4.1 The Social Security Advisory Committee (SSAC) considered the corresponding Great Britain proposals and decided that they did not need to have them formally referred.
- 4.2 As the regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, they do not have to be submitted to the Social Security Advisory Committee.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the proposals and concluded that the proposals do not have implications for equality of opportunity.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 The Regulations are not expected to give rise to any significant cost.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

(a) is not incompatible with any of the Convention rights,

- (b) is not incompatible with Community law,
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 None.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) (Amendment) Regulations 2015 (S.I. 2015 No. 1828) and come into force on 30th November 2015. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.